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MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 1st September, 1955

**THE ALL INDIA SERVICES (DISCIPLINE AND APPEAL)
RULES, 1955**

S.R.O. 1866.—In exercise of the powers conferred by sub-section (1) of section 3 of the All-India Services Act, 1951 (LXI of 1951), the Central Government, after consultation with the Governments of the States concerned, hereby makes the following rules, namely:—

1. **Short title.**—These rules may be called the All-India Services (Discipline and Appeal) Rules, 1955.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

- (a) 'Commission' means the Union Public Service Commission;
- (b) 'Government' means—
 - (i) in the case of a member of the Service serving in connection with the affairs of the Union, the Central Government; or
 - (ii) in the case of a member of the Service serving under a foreign Government, or outside India (whether on duty or on leave), the Central Government; or
 - (iii) in the case of a member of the Service serving in connection with the affairs of a State, the Government of that State;

Explanation.—A member of the Service whose services are placed at the disposal of any company, corporation, organization or any local authority by the Central Government

or the Government of a State shall, for the purposes of these rules, be deemed to be a member of the Service serving in connection with the affairs of the Union or the affairs of that State, as the case may be, notwithstanding that his salary is drawn from sources other than the Consolidated Fund of the Union or of that State;

- (c) 'Member of the Service' means a member of the Indian Administrative Service or a member of the Indian Police Service, as the case may be;
- (d) 'State' means a Part 'A' State or a Part 'B' State other than the State of Jammu and Kashmir and includes the State of Vindhya Pradesh;
- (e) 'State Government' in relation to the State of Vindhya Pradesh means the Lieutenant Governor;
- (f) 'State Government concerned' in relation to a joint cadre, means the Governments of all the States for which the joint cadre is constituted and includes the Government of a State nominated by the Governments of all such States to represent them in relation to a particular matter.

3. Penalties.—The following penalties may, for good and sufficient reasons, and as hereinafter provided, be imposed on a member of the Service, namely:—

- (i) censure;
- (ii) withholding of increments or promotion;
- (iii) reduction in rank including reduction to a lower post or time-scale, or to a lower stage in a time-scale;
- (iv) recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders;
- (v) compulsory retirement on proportionate pension;
- (vi) removal from the Service which shall not disqualify for future employment;
- (vii) dismissal from the Service which shall ordinarily disqualify for future employment.

Explanations.—(1) The termination of employment of a probationer during or at the end of the period of probation, in accordance with the relevant provisions of the Indian Administrative Service (Probation) Rules, 1954 or the Indian Police Service (Probation) Rules, 1954, as the case may be, does not amount to removal or dismissal within the meaning of this rule.

(2) The stoppage of a member of the Service at the efficiency bar in the time-scale of his pay on the ground of his unfitness to cross the bar does not amount to withholding of increments or promotion within the meaning of this rule.

(3) A refusal to promote a member of the Service, after due consideration of his case, to a post or grade to which promotions are made by selection, does not amount to withholding of promotion within the meaning of this rule.

(4) The reversion to a lower post of a member of the Service who is officiating in a higher post, after a trial in the higher post or for administrative reasons (such as the return of the permanent incumbent from leave or deputation, availability of a more suitable officer, and the like) does not amount to reduction in rank within the meaning of this rule.

(5) The compulsory retirement of a member of the Service under the provisions of the All India Services (Death cum Retirement Benefits) Rules, framed under the All India Services Act, 1951, shall not amount to a penalty under this rule.

(6) The withholding of increments for failure to pass departmental examinations in accordance with the relevant provisions of the Indian Administrative Service (Pay) Rules, 1954, or the Indian Police Service (Pay) Rules, 1954, as the case may be, does not amount to withholding of increments within the meaning of this rule.

4. Authority to impose penalty.—(1) Subject to the provisions of these rules, the penalty of dismissal, removal or compulsory retirement shall not be imposed on a member of the Service except by an order of the Central Government.

(2) Where a member of the Service has committed any act or omission which renders him liable to any penalty specified in rule 3 other than the penalties specified in sub-rule (1) of this rule, the Government under whom such member was serving at the time of the commission of such act or omission shall alone be competent to institute disciplinary proceedings against him and to impose on him such penalty as it thinks fit and the Government under whom he is serving at the time of the institution of such proceedings shall be bound to render all reasonable facilities to the Government instituting and conducting such proceedings

Provided that where the punishing Government is not the Government on whose cadre the member is borne, the latter Government shall be consulted before any such penalty is imposed:

Provided further that where the Governments concerned are the Central Government and the State Government or two State Governments and there is a difference of opinion between the said Governments in respect of any matter referred to in this sub-rule, the decision of the Central Government thereon, which shall be passed in consultation with the Commission, shall be final.

5. Procedure for imposing penalties.—(1) Without prejudice to the provisions of the Public Servants Inquiry Act, 1850, no order shall be passed imposing any of the penalties specified in rule 3 on a member of the Service unless he has been informed in writing of the grounds on which it is proposed to take action and has been afforded an adequate opportunity of defending himself.

(2) The grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges, which shall be communicated to the member of the Service charged together

with a statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case.

(3) The member of the Service shall be required, within such time as may be considered by the Government reasonably adequate in the circumstances of the case, to put in a written statement of his defence and to state whether he desires to be heard in person.

(4) The member of the Service concerned may request for an access to official records for the purpose of preparing his written statement provided that the Government may, for reasons to be recorded in writing, refuse him such access if in its opinion such records are not strictly relevant to the case or it is not desirable in the public interest to allow such access.

(5) After the written statement is received from the member of the Service in accordance with sub-rule (3) or if no such written statement is received within the time allowed, Government may, if it considers it necessary, appoint a Board of Inquiry or an Inquiry Officer to inquire into the charges framed against the member of the Service and shall have the charges inquired into as provided in sub-rule (6). If the Government does not consider it necessary to appoint a Board of Inquiry or an Inquiry Officer, the Government shall inquire into the charges in such manner as it deems fit.

(6) If the member of the Service desires to be heard in person, he shall be so heard. If he desires that an oral inquiry be held or if the Government so directs, an oral inquiry shall be held by the Board of Inquiry or the Inquiry Officer, as the case may be. At such inquiry evidence shall be heard as to such of the allegations as are not admitted and the member of the Service charged shall be entitled to cross-examine the witnesses, to give evidence in person and to have such witnesses called as he may wish:

Provided that the Board of Inquiry or the Inquiry Officer, as the case may be, may, for reasons to be recorded in writing, refuse to call a witness.

(7) Where a Board of Inquiry is appointed, it shall consist of not less than two senior officers, provided that at least one member of such Board shall be an officer of the Service to which the member of the Service belongs.

(8) The proceedings conducted against a member of the Service under the provisions of this rule shall contain a sufficient record of the evidence and a report setting out the findings and the grounds on which they are based, but shall not contain any recommendation relating to the penalty to be imposed unless the Government has specifically called for such recommendation.

(9) After the inquiry against a member of the Service has been completed and after the punishing authority has arrived at any provisional conclusion in regard to the penalty to be imposed, if the penalty proposed is dismissal, removal, compulsory retirement or reduction in rank, the member of the Service charged shall be

supplied with a copy of the report of inquiry and be given a further opportunity to show cause why the proposed penalty should not be imposed on him:

Provided that if the punishing authority disagrees with any part or whole of the findings of the Board of Inquiry or the Inquiry Officer, the point or points of such disagreement together with a brief statement of the grounds thereof, shall also be communicated to the member of the Service.

(10) Notwithstanding anything contained in this rule,—

- (a) it shall not be necessary to follow the procedure laid down in sub-rules (2) to (9) in cases where it appears to the authority competent to impose the penalty at the initial stage of the proceedings that the penalty of censure would be adequate, but if at any later stage it is proposed to impose any other penalty specified in rule 3, the procedure laid down in the said sub-rules (2) to (9) shall be followed;
- (b) it shall be lawful for the authority competent to impose the penalty to waive, for good and sufficient reasons to be recorded in writing, any of the provisions of this rule in any exceptional case where such authority is satisfied that there is difficulty in strictly complying with such provisions and that compliance with such provisions can be waived without any injustice to the member of the Service concerned;
- (c) the provisions of this rule shall not apply in relation to the imposition on any member of the Service of any of the penalties specified in rule 3—
 - (i) where the penalty is imposed on the ground of conduct which has led to his conviction on a criminal charge;
 - (ii) where the authority empowered to impose a penalty is satisfied that, for some reason to be recorded in writing, it is not reasonably practicable to follow the provisions of this rule; and
 - (iii) where the authority empowered to impose a penalty is satisfied that in the interest of the security of the State, it is not expedient to follow the provisions of this rule.

6. Consultation with the Commission.—No order imposing on a member of the Service any penalty specified in rule 3 shall be passed by the Government except after consultation with the Commission:

Provided that in cases where there is a difference of opinion between a State Government and the Commission, the matter shall be referred to the Central Government whose decision thereon shall be final.

7. Suspension during disciplinary proceedings.—(1) If having regard to the nature of the charges and the circumstances in any case, the Government which initiates any disciplinary proceedings is satisfied that it is necessary or desirable to place under suspension the member of the Service against whom such proceedings are started, that Government may—

- (a) if the member of the Service is serving under it pass an order placing him under suspension, or
- (b) if the member of the Service is serving under another Government, request that Government to place him under suspension, pending the conclusion of the inquiry and the passing of the final order in the case:

Provided that in cases where there is a difference of opinion between two State Governments, the matter shall be referred to the Central Government whose decision thereon shall be final.

(2) A member of the Service who is detained in official custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours, shall be deemed to have been suspended by the Government concerned under this rule.

(3) A member of the Service against whom a criminal charge is pending may, at the discretion of the Government under which he is serving, be placed under suspension until the termination of the proceedings if the charge is connected with his position as a Government servant or is likely to embarrass him in the discharge of his duties or involves moral turpitude.

8. Subsistence allowance during suspension.—A member of the Service who is placed under suspension shall, during the period of such suspension, be entitled to receive payment from the Government suspending him as a subsistence allowance an amount equal to the leave salary which the officer would have drawn under the leave rules applicable to him if he had been on leave on half pay or on half average pay:

Provided that where the period of suspension exceeds twelve months, it shall be within the competence of the suspending authority to increase or reduce the amount of subsistence allowance for any period subsequent to the period of the first twelve months, subject to the following conditions, namely:—

- (i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding fifty per cent. of the subsistence allowance drawn during the period of the first twelve months, if, in the opinion of the suspending authority, the period of suspension has been prolonged for reasons not directly attributable to the member of the Service;
- (ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding fifty per cent. of the subsistence allowance drawn during the period

for the first twelve months, if, in the opinion of the suspending authority, the prolongation of the period of suspension has been due to reasons directly attributable to the member of the Service:

Provided further that in addition to the subsistence allowance, the Government may direct to such extent and subject to such conditions as it thinks fit, the payment of—

- (i) any compensatory allowance of which the member of the service was in receipt on the date of suspension; and
- (ii) dearness allowance not exceeding the amount admissible as such had he been on leave on leave salary equal to the rate of subsistence allowance payable from time to time.

9. Pay, allowances and treatment of service on reinstatement.—

(1) When a member of the Service who has been dismissed, removed or suspended is reinstated, the authority competent to order the reinstatement shall consider and make order as to—

- (a) the pay and allowances which shall be paid to the member of the Service for the period of his absence from duty; and
- (b) whether or not the said period shall be treated as a period spent on duty.

(2) (a) Where such competent authority holds that the member of the Service has been fully exonerated or, in the case of suspension, that it was unjustifiable, the member of the Service shall be granted the full pay to which he would have been entitled had he not been dismissed, removed or suspended, as the case may be, together with any allowance of which he was in receipt immediately prior to his dismissal, removal or suspension.

(b) In all other cases, the member of the Service shall be granted such proportion of such pay and allowances as such competent authority may direct:

Provided that the payment of allowances under this sub-rule shall be subject to all other conditions subject to which such allowances are admissible.

(3) (a) In a case falling under clause (a) of sub-rule (2), the period of absence from duty shall for all purposes be treated as a period spent on duty.

(b) In a case falling under clause (b) of sub-rule (2), the period of absence from duty shall not be treated as a period spent on duty, unless the competent authority specifically directs, for reasons to be recorded in writing, that it shall be so treated for any specific purpose.

10. Right of appeal.—(1) Every member of the Service shall be entitled to appeal to the Central Government as hereinafter provided, from an order passed by a State Government imposing on him any of the penalties specified in clauses (i) to (iv) of rule 3.

(2) A member of the Service shall be entitled to appeal to the Central Government against any order of a State Government passed under sub-rules 2(b) and 3(b) of rule 9 and also against any order passed by a State Government which—

- (a) alters to his disadvantage his conditions of service, pay, allowances or pension as regulated by the rules applicable to him, or
- (b) interprets to his disadvantage the provisions of any rules whereby his conditions of service, pay, allowances or pension are regulated, or
- (c) whether the penalty is excessive, adequate, or inadequate junior to the senior scale, or
- (d) has the effect of stopping him at the efficiency bar.

11. Cases where there is no right of appeal.—(1) A member of the Service shall have no right of appeal from an order passed by the Central Government.

(2) No appeal shall lie against an order of a competent authority withholding an appeal under rule 14.

(3) Nothing in sub-rule (1) or sub-rule (2) shall be deemed to affect or abridge the right of a member of the Service to submit a memorial to the President under and in accordance with the provisions of rule 20.

12. Consideration of appeals by appellate authority.—(1) In the case of an appeal against an order imposing any penalty specified in clauses (i) to (iv) of rule 3, the Central Government shall consider—

- (a) whether the facts on which the order was based have been established;
- (b) whether the facts established afford sufficient ground for taking action; and
- (c) whether the penalty is excessive, adequate, or inadequate and after such consideration, in consultation with the Commission, pass such order as it thinks proper.

(2) In the case of an appeal preferred under sub-rule (2) of rule 10, the Central Government shall pass such order as appears to it just and equitable having regard to all the circumstances of the case.

(3) Every order passed by the Central Government in appeal under sub-rule (1) or sub-rule (2) shall be final and the State Government concerned shall forthwith give effect to such order.

13. Form and procedure for submission of appeals.—(1) Every member of the Service preferring an appeal shall do so separately and in his own name.

(2) Every appeal preferred under these rules shall be addressed to the Secretary to the Government of India in the Ministry of Home Affairs and shall—

- (a) contain all material statements and arguments relied on by the appellant;
- (b) contain no disrespectful or improper language; and
- (c) be complete in itself.

(3) Every such appeal shall be submitted through the head of the office under whom the appellant is for the time being serving and through the Government from whose order the appeal is preferred.

14. Circumstances in which appeals may be withheld.—(1) The State Government from whose order an appeal is preferred may withhold the appeal if—

- (a) it is an appeal in a case in which under these rules there is no right of appeal, or
- (b) it does not comply with the provisions of rule 13, or
- (c) it is not preferred within six months after the date on which the orders appealed against were received by the appellant and no reasonable cause is shown for the delay, or
- (d) it is a repetition of a previous appeal which has already been decided and no new facts or circumstances are adduced which afford grounds for a reconsideration of the case.

(2) In every case in which an appeal is withheld, the appellant shall be informed of the fact and the reasons therefor.

(3) An appeal withheld on account only of failure to comply with the provisions of rule 13 may be resubmitted at any time within one month of the date on which the appellant has been informed of the withholding of the appeal, and, if re-submitted in a form which complies with the said provisions, shall not be withheld.

15. Forwarding of appeals.—(1) The State Government shall, without any avoidable delay, forward to the Central Government every appeal which is not withheld under rule 14.

(2) Every appeal so forwarded shall be accompanied by an expression of opinion of the State Government in regard to the facts alleged and the grounds urged in support of the appeal.

16. List of appeals withheld.—The State Government shall forward to the Central Government on the first day each of January and July of every year a list of appeals to the Central Government withheld by them under rule 14 during the preceding six months together with the reasons for withholding the same.

17. Appellate authority may call for any appeal withheld.—The Central Government may call for any appeal which has been withheld by any State Government under rule 14, deal with it in the manner laid down in rule 12 and pass such order thereon as the Central Government thinks fit.

18. Appeals preferred prior to commencement of these Rules.—Nothing in these rules shall operate to deprive a member of the Service of any right of appeal, which he would have had if these rules had not been made, in respect of any order passed before they came into force. An appeal pending at the time when, or preferred after, these rules came into force shall be deemed to be an appeal under these rules and shall be disposed of as if it is an appeal against an order appealable under these rules.

19. Revision.—Notwithstanding anything contained in these rules but always subject to the provisions of sub-rule (1) of rule 4 and of rule 6, the Central Government or the State Government concerned, as the case may be, may, of its own motion or otherwise, review and revise any order which has been passed by it in the exercise of any of the powers conferred on it by any of these rules other than an order passed under rule 12 within a period of six months from the date of the order passed in appeal, if an appeal had been preferred, and where no such appeal had been preferred, within one year of the original order which gives the cause of action:

Provided that where it is proposed to enhance the penalty imposed by any such order, the member of the Service shall be given an opportunity of showing cause against the proposed enhancement:

Provided further that where the original order was passed by the Central Government or the State Government concerned, as the case may be, after consultation with the Commission, it shall not be revised except after consultation with the Commission.

20. Memorials.—(1) A member of the Service shall be entitled to submit a memorial to the President against any order of the Central Government or the State Government by which he is aggrieved within a period of three years from the date of the passing of such order.

(2) Every memorial shall be authenticated by the signature of the memorialist and submitted by the memorialist on his own behalf.

(3) Every memorial submitted under these rules shall—

- (a) contain all material statements and arguments relied upon by the memorialist;
- (b) contain no disrespectful or improper language;
- (c) be complete in itself; and
- (d) end with a specific prayer.

(4) If the memorial is against the orders of a State Government, it should be submitted through the State Government concerned, and if the memorial is against the orders of the Central Government, it shall be submitted through the Ministry or the appropriate authority in the Central Government under whom the member of the Service is for the time being serving.

(5) A memorial forwarded under sub-rule (4) shall be accompanied by a concise statement of facts material thereto, and unless there are special reasons to the contrary, with an expression of opinion thereon—

(a) of the State Government concerned, or

(b) of the Ministry or the appropriate authority in the Central Government under whom the member of the service is for the time being serving, or

(c) of both the State Government concerned and the Central Government,

as the case may be.

(6) The authority against whose orders a memorial is submitted under this rule shall give effect to any order passed thereon by the President.

21. Forwarding of advance copies.—In cases where an appeal is preferred or a memorial is submitted under these rules, the appellant or the memorialist, as the case may be, may, if he so desires, forward an advance copy to the appellate authority in the case of an appeal or to the President of India in the case of a memorial.

22. Interpretation.—If any question arises relating to the interpretation of these rules, it shall be referred to the Central Government whose decision thereon shall be final.

23. Repeal and Saving.—Any rules corresponding to these rules in force immediately before the commencement of these rules are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

[No. 7/1/54-AIS(II).]

R. C. DUTT,
Joint Secretary.

